

REPORT: Regulatory Committee

DATE: 27 November 2019

REPORTING OFFICER: Strategic Director Enterprise, Community and Resources

PORTFOLIO: Resources

SUBJECT: Taxi Licensing Matter

WARDS: Borough-wide

1. PURPOSE OF REPORT

To consider additions/amendments to elements of Taxi Licensing Policy, Single Status Driver's, Hackney Carriage, Private Hire Vehicle and Private Hire Operator's conditions as set out below.

2. RECOMMENDED: That the Committee considers the proposals and make appropriate recommendations to the Executive Board.

3. INTRODUCTION AND BACKGROUND INFORMATION

3.1 During meetings of the Taxi Consultative Group, various changes and additions were tabled for policy changes as well as changes to the Single Status Driver's, Hackney Carriage and Private Hire Vehicle, and Private Hire Operator's conditions as set out below. The group was asked to consult with the taxi trade they represent regarding the proposed changes. The potential changes to existing policy are summarised at section 4 of this report.

3.2 The Committee is responsible for determining the Council's policies in connection with the grant, variation, suspension or revocation of licences relating to taxi and private hire (see Terms of Reference of the Regulatory Committee part 17B).

3.3 However, the Constitution must now be interpreted in accordance with the case of R (On the application of 007 Stratford Taxis Limited v Stratford on Avon District Council 2011. This Court of Appeal decision interpreted the meaning of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 in respect of matters which must be dealt with

by a Council's Executive or by a committee of its council. Essentially, the court held that: (1) it was clear that individual applications relating to taxi matters must be dealt with by the equivalent of this Council's Regulatory Committee and (2) matters calculated to facilitate, or be conducive or incidental to such applications must also be dealt with in the same way but (3) any "plan or strategy" associated with such a function would be an executive function and therefore have to be determined by a council's executive. The Stratford case concerned the introduction of a wheelchair access policy. The decision was taken by the Council's cabinet rather than its Licensing Committee. The challenge from the taxi trade was that the Licensing Committee should have adopted the policy. This element of the challenge was rejected by the court.

3.4 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.

3.5 In deciding whether or not to adopt or to recommend the adoption of a policy the following questions should be addressed:

3.5.1 Has proper consultation been undertaken?

3.5.2 Are the proposals necessary and proportionate?

3.5.3 In considering 3.5.2 what is it about any existing policy which has proved deficient or has failed to deal adequately with changes in circumstance?

3.6 The potential policy changes are introduced at section 4 below and analysed at Appendix A below. In summary they deal with the following areas:

- Painting trailers;
- Position of door signs on private hire vehicles;
- Display of table of fares as a single status driver condition;
- Maximum tyre age requirement;
- Insurance condition on vehicle licences;
- Insurance condition on single status drivers' licences.

4. POTENTIAL CHANGES

4.1 Consider amending the pre-condition vehicle policy and remove the requirement to paint an approved trailer the same colour as the towing vehicle.

4.1.1 Currently, trailers may be towed by licensed hackney carriage and private hire vehicles provided they comply with a number

of pre-conditions. One of these pre-conditions is the requirement to paint the trailer to match the towing vehicle.

4.1.2 This requirement has been in place further back than current records are held therefore its purpose can only be assumed to date back to a time when trailers were not mass-manufactured with current lightweight materials.

4.1.3 This pre-condition serves no benefit to the current trade (or the public) and as modern trailers are made from metals, painting would likely affect the re-sale value of the trailer.

4.2 Consider an amendment to the current private hire vehicle licence conditions in order to specify where on the vehicle Halton borough Council's door signs are to be fitted.

4.2.1 Private hire vehicle condition 6, bullet point 3 currently states the following:

“a sign on adhesive plastic of a size colour design and wording approved by the Council shall be required to be positioned on both front doors indicating that the vehicle is a licensed Private Hire Vehicle”.

4.2.2 This instruction does not clarify where on the front doors these stickers should be fitted. This has resulted in a number of vehicles having these door signs fitted to the lower half of the vehicle doors which are either harder to read or cannot be read due to the curvature of the door.

4.2.3 The door signs are already designed in high visibility colours and as they provide safety information as well as providing the vehicle identification they need to be in a prominent position on the vehicle.

4.3 Consider removing the single status driver's licence condition requiring the display of a table of fares.

4.3.1 This condition is a “historical” one which no longer has any relevance to the driver. The requirement to display a table of fares now sits within the hackney carriage vehicle licensing conditions.

4.4 Consider creating a new hackney carriage and private hire vehicle pre-condition (policy) requiring all licensed vehicles to always be fitted with tyres that are less than 10 years old from the date of manufacture.

4.4.1 In 2012, a coach transporting young people back from a music festival crashed, causing three people to tragically lose their

lives, and many more to suffer life changing injuries. The crash was caused by a tyre that was 19.5 years old.

Following an inquest into the tragic crash the coroner wrote to the Government appealing for legislation to ban tyres older than 10 years from being used by coaches or mini-busses.

The Department of Transport did not implement this change in legislation but simply amended the safety guidelines of public service vehicles (busses, mini-busses, coaches etc), recommending that tyres over 10 years should not be fitted.

- 4.4.2 It is accepted that one of the biggest factors that adversely affects tyres is the process of ageing. Over time and with 'oxidation' certain rubbers 'work-harden' which leads to rubber stiffening and decreases its integrity.

Because aging substantially decreases the quality, integrity and ultimately the safety of tyres, you would expect there to be laws in place to protect the public.

Vehicle manufacturers make safety recommendations in their handbooks, stating tyres over 10 years old should not be used. Some go as far as saying 6 years is the safe limit.

- 4.4.3 On the sidewall of a tyre you will find the 'Department of Transport code' (DOT code). One of the key pieces of information that can be gained from this is the date the tyre was manufactured.

Since the year 2000, the date section of the code has been made up of 4 numbers. The first two numbers tell you the week and the last two indicate the year the tyre was manufactured. Therefore if a tyre has the code 39/09, this means the tyre was manufactured in the 39th week of the year 2009.

- 4.4.4 Because of the deemed safety implications, a safety campaign was set up by the mother of one of the individuals who died in the coach accident. Further details can be found on the campaign website www.tyred.org.uk

A number of authorities, public bodies and private organisations have given their backing to this campaign of which the Liverpool City Region is one.

- 4.4.5 Hackney carriages and private hire vehicles provide a major contribution to the transport network across the Liverpool City Region (if not the UK), therefore the issue of tyre safety has been discussed by licensing representatives from all 6 Liverpool City Region authorities. During these meetings it was agreed

to recommend a new policy to each licensing committee requiring all hackney carriage and private hire vehicles to be fitted with tyres less than 10 years old at all times.

4.4.6 The test bay at the Council's Lower House Lane depot has been monitoring the age of tyres being used on all licensed vehicles over the past 12 months and have only found 3 vehicles with tyres that exceed 10 years of age. When the owners of these vehicles were made aware of this fact they all chose to replace the tyres at their own discretion.

4.5 Consider removing a condition for private hire and hackney carriage vehicle licence-holders to hold insurance for their vehicles and for a copy of this insurance to be kept in the vehicle at all times.

4.5.1 The first part of this condition requiring a vehicle licence-holder to have insurance for their vehicle no longer serves any purpose as national legislation requires appropriate insurance to be held (Road Traffic Act 1988 refers) and drivers not complying with this act can be prosecuted.

4.5.2 The second part of this condition is no longer deemed relevant as again national legislation requires insurance to be provided by a licence-holder upon request which is a considerably more cost effective way of checking on insurance.

4.5.3 There is also an argument that it is no longer environmentally friendly to require all licence-holders to photocopy or print-out their insurance policies especially as most insurance companies now provide digital copies via email.

4.6 Consider removing a condition requiring single status drivers to keep a copy of their insurance in their vehicle at all times.

4.6.1 This condition is almost identical to the condition referred to in 4.5 of this report except that it refers to licensed drivers instead of the vehicle licence-holders and does not require drivers to hold relevant insurance.

4.6.2 The points referred to in 4.5.2 and 4.5.3 also apply to this condition.

5. ISSUES ARISING

It is not envisaged that any current licence-holder would be disadvantaged by the implementation of any of the recommendations made in this report.

6. REGULATORS' CODE 2014

- 6.1 The Regulators' Code 2014 requires regulators (such as the Council) to take into account a number of factors when introducing new policies.
- 6.2 For example, paragraph 1.2 of the Code states: "When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:
- understand and minimise negative economic impacts of their regulatory activities;
 - minimising the costs of compliance for those they regulate;
 - improve confidence in compliance for those they regulate, by providing greater certainty; and
 - encourage and promote compliance."
- 6.3 The Code also states that regulators should base their regulatory activities on risk. In the present case the balancing exercise is to weigh any negative consequences on the taxi trade against the positive consequences on the public who use the services of the trade.
- 6.4 It is taken as read that unnecessary burdens should never be imposed and that all actions need to be proportionate.

7. OPTIONS

- 7.1 The options available to the committee are to **recommend**:
- Agreement to some or all of the potential changes or
 - Amendment to some or all of the potential changes or
 - Rejection of the potential changes.
- 7.2 Should the Committee recommend a course of action other than outright rejection of any potential changes existing conditions will need to be altered. The Committee would therefore be requested to include within the resolution a delegation of the task of preparing detailed wording and other consequential matters.

8. POLICY IMPLICATIONS

- 8.1 Any changes made would change elements of existing policy and vary Conditions relating to applicants applying to hold

Single Status Driver's, Hackney Carriage & Private Hire, Vehicles and Private Hire Operator's Licences issued by Halton Borough Council.

9. OTHER IMPLICATIONS

None

10. IMPLICATIONS FOR THE COUNCILS PRIORITIES

10.1 Children and Young People in Halton

None

10.2 Employment Learning and Skills in Halton

N/A

10.3 A Healthy Halton

N/A

10.4 A Safer Halton

None

10.5 Halton's Urban Renewal

N/A

11. RISK ANALYSIS

None

12. EQUALITY AND DIVERSITY ISSUES

There are no equality or diversity issues related to a review

13. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
1. Taxi Consultative Group Agendas	Licensing Section	Kay Cleary Nick Wheeler
2. Current licence Conditions/policies		